

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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JOHN GARLAND, *et. al*, on behalf of themselves and  
all other similarly situated employees of the New York  
City Fire Department,

Plaintiffs,

-against-

NEW YORK CITY FIRE DEPARTMENT, DANIEL A.  
NIGRO, in his official and individual capacities, JOHN  
DOE #1-10, in their official and individual capacities;  
and JANE DOE #1-10 in their official and individual  
capacities,

Defendants.  
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**AFFIDAVIT OF DAVID  
BUTTON IN SUPPORT OF THE  
PLAINTIFFS' MOTION**

STATE OF NEW YORK     )  
                                  ) ss.  
COUNTY OF \_\_\_\_\_ )

**DAVID BUTTON**, being duly sworn deposes and states under penalty of perjury that:

1. I am a Plaintiff in this Action. I have not received a COVID-19 vaccine. I am a fire fighter, member of Ladder 3, and an employee of the NEW YORK CITY FIRE DEPARTMENT ("FDNY"). I offer this Affidavit based upon my personal knowledge and conversations I have had with my fellow FDNY employees who have not received a COVID-19 vaccine.

2. On July 18, 2021 I responded to a fire in a high-rise apartment building for a fire in the basement. We quickly discovered the room engulfed with fire. I had the outside ventilation position. Once the room was discovered and there were no victims in that room my duties were to properly ventilate the smoke out of the basement, search for victims overcome by smoke in adjoining rooms and find the sprinkler shut off simultaneously.

3. I entered an unmarked door in the basement that was filled with smoke making it impossible to see. After entering the room approximately three feet I suddenly and

unexpectedly fell five feet onto a concrete floor. I had 100 pounds of gear on and landed on top of my tools and other objects on the floor.

4. I went to the emergency room and had blood in my urine, excruciating pain in my left knee, back and various other parts of my body.

5. After leaving the emergency room I went to the FDNY medical office, they refused to give me an MRI, sent me to physical therapy and told me to come back in a few days.

6. On my second visit I was still denied an MRI despite affirming to them that I need one.

7. The third visit after a confrontational discussion the doctor at the Bureau of Health Services; I was finally approved for an MRI. The MRI showed I had a fractured knee and a torn ligament.

8. I was immediately placed in an immobilizing knee brace, gave me crutches and stopped my physical therapy. It was three weeks after having blood in my urine, a fractured knee, torn ligament and them sending me to physical therapy until they approved an MRI.

9. On October 18, 2021 I was taken off medical leave and put on light duty by the Bureau of Health Services.


10. On November 1, 2021 I was put on LWOP due to the vaccine mandate.

11. Today is November 22, 2021 I am still on LWOP and also not fully recovered from my knee injury.

12. Four months after my injury took place it is uncertain whether or not I will need surgery or ever recover fully from the injury I sustained at a fire protecting the life and property of the citizens of New York City.

13. Due to the lack of any negotiation from the city and lack of any information from the union I fear I will lose my medical benefits on December 1, 2021 even though I will still have injuries sustained from fighting fires in the City of New York.

14. On behalf of the Plaintiffs and all others similarly situated, I am requesting that the Court grant the Plaintiffs a Temporary Restraining Order and a Preliminary Injunction, restoring our pay, removing us from health insurance, and barring the FDNY from terminating our employment without due process.

  
David Button

Sworn before me on this  
29<sup>th</sup> day of November 2021

  
Notary Public

